

United States
Circuit Court of Appeals
For the Ninth Circuit.

JACK IRVINE,

Appellant,

vs.

ANGUS McDOUGALL, J. A. HEALY, GEORGE
M. SMITH and ROY RUTHERFORD,

Appelles.

Supplemental Transcript of Record.

Upon Appeal from the United States District Court
for the Territory of Alaska, Fourth Division.

Filed

MAY 10 1916

F. D. MONTGOMERY,

Clerk.

United States
Circuit Court of Appeals

For the Ninth Circuit.

JACK IRVINE,

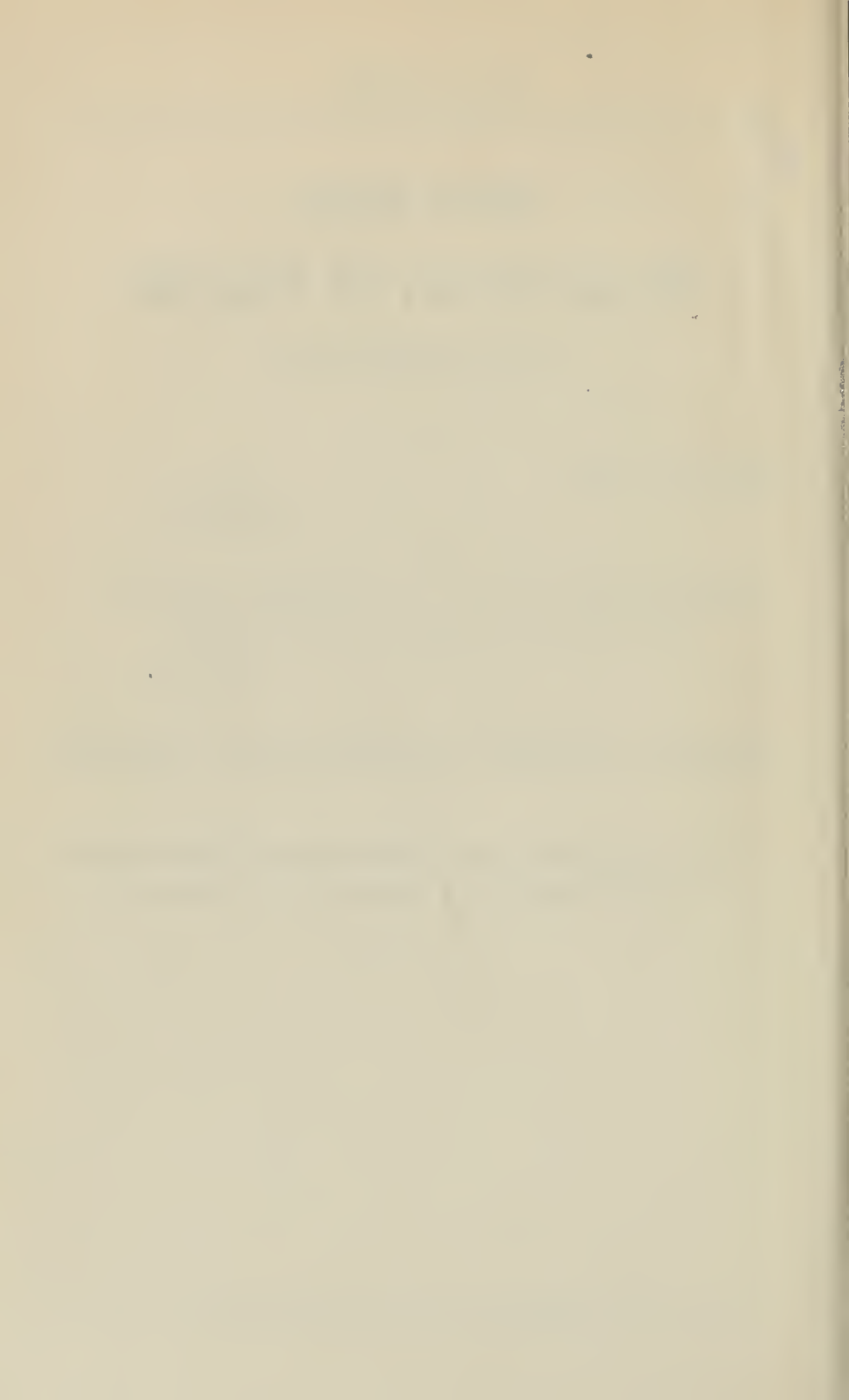
Appellant,

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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At a stated term, to wit, the October term, A. D. 1915,
of the United States Circuit Court of Appeals
for the Ninth Circuit, held in the courtroom
thereof, in the city and county of San Fran-
cisco, in the State of California, on Tuesday,
the twenty-ninth day of February, in the year
of our Lord one thousand nine hundred and
sixteen. Present: The Honorable WILL-
IAM B. GILBERT, Circuit Judge; Honorable
ERSKINE M. ROSS, Circuit Judge; Honor-
able WILLIAM H. HUNT, Circuit Judge.

No. 2730.

JACK IRVINE,

Appellant,

vs.

ANGUS McDOUGALL et al.,

Appellees.

**Order Granting Petition for Order Requiring
Appellant to File Supplemental Transcript.**

On motion of Mr. Thomas A. McGowan, counsel
for the appellees George M. Smith and Roy Ruther-
ford, Trustees, and on consideration of the petition
of counsel for the appellees, filed February 9, 1916,
for an order requiring the appellant to file a supple-
mental transcript, which said petition was called for
hearing this day in its regular order, as noticed, and
there being no appearance in open court of counsel
for the appellant and in opposition to the said peti-
tion, and good cause therefor appearing;

It is ORDERED that the said Petition be, and
hereby is granted and that the clerk of the District

Court for the Territory of Alaska, Fourth Judicial Division, at the cost of the appellant, transmit to this Court, without delay, a certified Supplemental Transcript, containing a copy of the following papers, viz.:

(1) The Opinion of the District Court, filed in said cause on June 1, 1915; and

(2) Claims of Lien introduced in evidence in said cause at the trial thereof, theretofore filed in the office of the recorder of the Fairbanks Recording Precinct, Fourth Judicial Division, Territory of Alaska, on behalf of James Fox, Donald Hayes, John Wensel, John Sully, Henry Berks, and Tom King, together with the endorsements thereon made by the recorder at the time said liens were filed.

I hereby certify that the foregoing is a full, true, and [1*] correct copy of an original order made and entered in the within entitled cause.

ATTEST my hand and the seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this twenty-ninth day of February, A. D. 1916.

[Seal] F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

10¢ Doc. Stamp cancelled.

[Indorsed]: No. 2730. United States Circuit Court of Appeals for the Ninth Circuit. Jack Irvine, Ap-

pellant, vs. Angus McDougall, et al., Appellees.
Certified Copy of Order Granting Petition for Order
Requiring Appellant to File Supplemental Tran-
script.

Service of the foregoing admitted this 24 March,
1916.

J. E. CLARK,
Clerk District Court,
By L. F. Protzman,
Deputy.

Filed in the District Court, Territory of Alaska,
4th Div. Mar. 24, 1916. J. E. Clark, Clerk. By
L. F. Protzman, Deputy. [2]

*In the District Court for the Territory of Alaska,
Fourth Judicial Division.*

No. 1938.

JACK IRVINE,

Plaintiff,

vs.

ANGUS McDOUGALL, THOMAS A. McGOWAN,
JOHN A. CLARK, DAVE CASCADEN, J. A.
HEALEY, GEO. M. SMITH, JOHN KO-
PITZV, and ROY RUTHERFORD,

Defendants.

Decision.

This is an action to foreclose laborers' liens upon
the Pioneer Quartz Mining Claim situate at the head
of Fairbanks Creek, in the Fairbanks Recording
Precinct, the plaintiff claiming a lien on behalf of

himself for labor performed in the development of said Pioneer Quartz Mining Claim, and also as the assignee of six other lien claimants.

The plaintiff alleges the performance of certain development work on the Pioneer Quartz Mining Claim under contract with the defendant McDougall; a compliance with the provisions of the statute entitling plaintiff to foreclose a lien for services rendered and the usual allegations in a complaint seeking foreclosure of a mechanics' lien. Similar allegations are made in the respective causes of action of the other six lien claimants and the further allegation of assignment by each lien claimant of his claim of lien to the plaintiff herein.

Plaintiff alleges that the owners of said mining claim on the 25th day of May, 1912, were Angus McDougall, Michael Hyland, who prior to the filing of the complaint herein sold his interest to David Cascaden, Thomas A. McGowan and J. A. Clark, who upon said date leased said claim to Angus McDougall for a period of ten years. That the defendant John A. Healey on the 12th day of May, 1913, caused a writ of attachment to issue against said [3] McDougall and levied the same upon said Pioneer Quartz Mining Claim. That on or about the 3d day of June, 1913, said McDougall made an assignment of certain property to Geo. M. Smith and Roy Rutherford for the benefit of his creditors assigning among other property his undivided interest in and to said Pioneer claim and leasehold interest therein. Plaintiff's complaint herein was filed in the court on

the 21st day of August, 1913. The defendants Smith, Rutherford and Healey have answered. The defendant McDougall is in default. From the record it appears that defendants McGowan, Clark, Cascaden and Kopits have not been served.

In the first place the Court calls attention to the second paragraph of the note to Title XII, page 276 of the Compiled Laws of Alaska.

“The safe and proper rule of construction of Mechanic’s Lien statutes is that while the remedial portions of these statutes should be liberally construed, with a view to avoid defeating the purpose of the statute, yet those parts upon which the right to the existence of a lien depend, being in derogation of the common law, should be strictly construed.

Morris v. Marsh (3 Alaska Rep. 144).”

Chapter 28 of the Compiled Laws of Alaska definitely sets forth what the claimant must do in order that he may have a lien. No liberal construction is permitted to be applied to the mandatory requirement of the statute that the claim of lien must be filed within the specified time, in order that it may become an actual lien instead of a claim and may charge the property with a special statutory liability.

The evidence shows that on the 20th day of May, 1913, the plaintiff, Irvine and five of the other claimants subscribed and swore to their respective Claims for Mechanic’s Liens; that the seventh claimant subscribed and swore to his Claim for Mechanic’s Lien

on the 28th day of May, 1913, and that it was filed for record in the office of the recorder for the Fairbanks Recording Precinct [4] on the same date. Irvine's claim was filed for record on the 7th of June, and the other claims were filed between the 27th of May and the 7th of June.

No lien exists until the Claim of Lien is filed as prescribed by statute. The provisions of the statute permit of no other construction. The statute plainly says to the claimant that if a special security is desired then the claimant must fully comply with the special provisions of the statute designed to afford such special security.

The evidence shows that all the claimants who assigned to Irvine, with the exception of one King, made such assignments prior to the time of filing their several claims with the recorder. The claimant King on cross-examination testified that he had made his assignment the day prior to May —, 1915, the date on which he testified in the trial of this case.

Plaintiff's Exhibit "I" introduced in evidence, reads as follows:

"For value received, I hereby assign and sell to Jack Irvine, my claim against Angus McDougall for work and labor performed upon the Pioneer Quartz Mining Claim at the head of Fairbanks Creek and also any and all rights

which I may have by virtue of having filed a mechanic's lien for said amount upon said claim.

JAMES FOX.

DONALD HAYES.

JOHN WENSEL.

JOHN H. SULLY.

HENRY BERKS.

TOM KING."

The evidence shows that at the time this instrument, which is not dated, was signed, the respective claimants, with the exception of King, had not filed their respective claims of lien, and therefore their liens as such were not assigned.

In each cause of action except the first in plaintiff's complaint it is alleged "that subsequent to the filing of said lien said (claimant) for a valuable consideration, assigned said claim [5] against said McDougall and all rights by virtue of having filed said lien, to the plaintiff, who is now the owner and holder thereof."

In the absence of any statute to the contrary the assignment of the claim before the perfection of lien destroys the right to lien.

56 N. W. 722; 35 N. E. 638; 25 Pac. 1070.

See, also, *Arndt v. Manger et al.*, No. 1858, records of this Court (Unreported).

It is stated in *Boisot on Mechanic's Liens*, sec. 10, as follows:

"In several of the states the statute expressly declares that mechanics' lien are assignable.

Where this is the case, the question is, of course,

at rest, so far as that state is concerned. But where the statute says nothing on that subject, the question of assignability depends mainly upon the point whether or not the lien has been perfected by filing the claim before the assignment is made. In nearly all the states the person claiming the lien is obliged, in order to perfect it, to file a claim, verified by affidavit, showing, among other things, the amount that is due to him for labor or materials furnished by him. If he has assigned the account before he filed his claim, he cannot truthfully swear that there is anything due him, because the debt is then due, not to him but to his assigns. But his assignee cannot truthfully swear that he has either done work or furnished materials, and it is only to those who furnish either labor or materials, or both, that a lien is given. It follows, logically, from this reasoning, that a mechanic's lien, before being perfected by filing a claim, is not assignable; and a majority of the decisions so hold."

The mere right to a lien is not assignable;

7 N. W. 401; 32 N. W. 219; 41 Pac. 1103;

4 Oreg. 29; 57 N. E. 719; 90 N. E. 73; .

118 Pac. 103-113; 142 Pac. 785.

27 Cyc. 255-256.

Regarding the lien of Irvine, the plaintiff herein, the Court finds from the evidence that he has a valid lien on the property described, as alleged in the first cause of action, and that his lien is superior to the attachment of the defendant Healey.

In accordance with the views herein expressed, findings of fact, conclusions of law, judgment and decree may be prepared and submitted.

Dated this 1st day of June, 1915.

CHARLES E. BUNNELL,

District Judge. [6]

[Indorsed]: Filed in the District Court, Territory of Alaska, 4th Div. Jun. 1, 1915. J. E. Clark, Clerk. By Sidney Stewart, Deputy. [7]

Claim [of James Fox] for Mechanic's Lien.

United States of America,
Territory of Alaska,—ss.

James Fox, being first duly sworn, on oath says: That on or about the 18th day of January, 1913, one Angus McDougall hired him to work upon the Pioneer Quartz Mining Claim situate at the head of Fairbanks Creek on the left limit thereof, on the divide between said creek and Wolf Creek, agreeing to pay him therefor, the sum of \$5 per day for each day of nine hours he worked thereon, and an additional dollar for each hour of overtime; that pursuant to said contract, this affiant, upon said date, commenced work upon said claim, at no time ceasing work for a period of thirty days, and between said date and May 11th, 1913, the same being the last day he worked thereon, he worked 110 days and an additional 125 hours as overtime, for which there is due and owing \$675, no part of which has been paid and he now claims a lien for said amount with interest from date at 8% per year, upon said

mining claim and also upon the leasehold interest hereinafter described of said Angus McDougall in said claim; that the above-mentioned time was put in wholly in running the engine in connection with sinking the main shaft, running tunnels, prospecting, etc., upon said claim.

That the owners of said mining claim, upon the 25th day of May, 1912, were Angus McDougall, Michael Hyland, Thomas A. McGowan, and John A. Clark, who, upon said date, executed a written lease to said Angus McDougall, upon said mining claim, for a period of ten years from June 1st, 1912, and said McDougall is now the owner of said leasehold interest; that for all times since said 25th day of May, 1912, the owners of said claim have been and now are the same as above mentioned, except that one, Dave Cascaden [8] has succeeded to the interest of Michael Hyland in said claim; that said first-mentioned owners and said Cascaden knew said McDougall was developing said claim under said lease, and knew that said McDougall, with hired men including this affiant, was developing and improving said mine, as aforesaid, and at no time did said first-mentioned owners or Dave Cascaden post any notices negating liability for said work.

JAMES FOX.

Subscribed and sworn to before me this 20th day of May, 1913.

[Seal]

HARRY E. PRATT,
Notary Public in and for Alaska.

[Indorsed]: 38,934. Claim for Mechanic's Lien. James Fox. Territory of Alaska, Fourth Judicial Division,—ss. Filed for record at request of H. E. Pratt on the 2 day of June, 1913, at 45 min. past 2 P. M. and recorded in Vol. 1, of Liens, page 131, Fairbanks Recording District. John F. Dillon, Recorder. By C. E. Wright, Deputy.

#1938. Pltffs. Ex. "E." Filed in the District Court, Territory of Alaska, 4th Div. May 21, 1915. J. E. Clark, Clerk. By P. R. Wagner, Deputy. [9]

Claim [of Donald Hayes] for Mechanic's Lien.

United States of America,
Territory of Alaska,—ss.

Donald Hayes, being first duly sworn, on oath says: That on or about the 18th day of January, 1913, one Angus McDougall hired him to work upon the Pioneer Quartz Mining claim situate at the head of Fairbanks Creek on the left limit thereof, on the divide between said creek and Wolf Creek, agreeing to pay him therefor, the sum of \$5.50 per day for each day of nine hours he worked thereon; that pursuant to said contract, this affiant, upon said date, commenced work upon said claim, at no time ceasing work for a period of thirty days, and between said date and May 12th, 1913, the same being the last day he worked thereon, he worked 106½ days, for which there is due and owing \$585.75, no part of which has been paid, and he now claims a lien for said amount with interest from date at 8% per year, upon said mining claim and also upon the

leasehold interest hereinafter described of the said Angus McDougall, in said claim; that the above-mentioned time was put in wholly in doing development and improvement work upon said mine, to wit, sinking the main shaft, running tunnels, prospecting, etc., upon said claim.

That the owners of said mining claim, upon the 25th day of May, 1912, were Angus McDougall, Michael Hyland, Thomas A. McGowan and John A. Clark, who, upon said date, executed a written lease to the said Angus McDougall upon said mining claim for a period of ten years from June 1st, 1912, and said McDougall is now the owner of said leasehold interest; that for all times since said 25th day of May, 1912, the owners of said claim have been, and now are, the same as above mentioned, except that one Dave [10] Cascaden, has succeeded to the interest of Michael Hyland in said claim; that said first-mentioned owners and said Cascaden knew that said McDougall was developing said claims under said lease, and knew that said McDougall, with hired men, including this affiant, was developing and improving said mine, as aforesaid, and at no time did said first-mentioned owners or Dave Cascaden post any notices negating liability for said work.

DONALD HAYES.

Subscribed and sworn to before me this 20th day of May, 1913.

[Seal]

HARRY E. PRATT,

Notary Public in and for Alaska.

[Indorsed]: 38,935. Claim for Mechanic's Lien. Donald Hayes. Territory of Alaska, Fourth Judi-

cial Division,—ss. Filed for record at request of H. E. Pratt on the 2 day of June, 1913, at 45 min. past 2 P. M., and recorded in Vol. 1 of Liens, page 131 Fairbanks Recording District. John F. Dillon, Recorder, by C. E. Wright, Deputy.

1938. Pltffs. Ex. "D." Filed in the District Court, Territory of Alaska, 4th Div. May 21, 1915. J. E. Clark, Clerk. By P. R. Wagner, Deputy.
[11]

Claim [of John Wensel] for Mechanic's Lien].

United States of America,
Territory of Alaska,—ss.

John Wensel, being first duly sworn, on oath says: That on or about the 9th day of December, 1912, one Angus McDougall hired him to work upon the Pioneer Quartz Mining Claim situate at the head of Fairbanks Creek on the left limit thereof, on the divide between said creek and Wolf Creek, agreeing to pay him therefor the sum of \$5 per day for each day he worked thereon; that pursuant to said contract, this affiant, upon said date, commenced work upon said claim, at no time ceasing work for a period of thirty days, and between said date and May 12, 1913, the same being the last day he worked thereon he worked 126½ days, upon which he has been paid \$14, and there is still due, owing and unpaid therefor, the sum of \$623.50 for which amount, with interest thereon at 8% yearly from date hereof, he now claims a lien upon said mining claim and also upon

the leasehold interest, hereinafter described, of said Angus McDougall in said claim; that the above-mentioned time was put in wholly in cooking for the men sinking the main shaft, running tunnels and other development work on said claim.

That the owners of said mining claim, upon the 25th day of May, 1912, were Angus McDougall, Michael Hyland, Thomas A. McGowan and John A. Clark, who, upon said date, executed a written lease to said Angus McDougall upon said mining claim, for a period of ten years from June 1st, 1912, and said McDougall is now the owner of said leasehold interest; that for all times since said 25th day of May, 1912, the owners of said claim have been and now are the same as above mentioned, except that one Dave Cascaden, has succeeded to the interest of Michael Hyland in said claim; that said first-mentioned [12] owners and said Cascaden knew said McDougall was developing said claim under said lease and knew that said McDougall, with hired men, including this affiant, was developing and improving said mine, as aforesaid, and at no time did said first-mentioned owners or Dave Cascaden, post any notices negating liability for said work.

JOHN WENSEL.

Subscribed and sworn to before me this 20th day of May, 1913.

[Seal]

HARRY E. PRATT,
Notary Public in and for Alaska.

38,905. Claim for Mechanic's Lien. John Wensel. Territory of Alaska, Fourth Judicial Division,

—ss. Filed for record at request of H. E. Pratt on the 27th day of May, 1913, at 30 min. past 3 P. M., and recorded in Vol. 1 of Liens, page 129, Fairbanks Recording District. John F. Dillon, Recorder. By C. E. Wright, Deputy.

#1938. Pltffs. Ex. "C." Filed in the District Court, Territory of Alaska, 4th Div. May 21, 1915. J. E. Clark, Clerk. By P. R. Wagner, Deputy.
[13]

Claim [of John Sully] for Mechanic's Lien.

United States of America,
Territory of Alaska,—ss.

John Sully, being first duly sworn on oath says; that on or about the 18th day of April, 1913, one Angus McDougall hired him to work, to build a meat cache, ore bunker and trestle approach thereto, upon the Pioneer Quartz Mining claim situate at the head of Fairbanks Creek on the left limit thereof, on the divide between said creek and Wolf Creek, agreeing to pay him therefor the sum of \$1.50 per hour; that pursuant to said contract, this affiant, upon said date, commenced said work and completed it between said date and May 5th, 1913, the same being the last day he worked thereon, working thereon 178 hours, for which there is due, owing and unpaid the sum of \$267 for which this affiant now claims a lien for said amount with interest at 8% per annum from date hereof, upon said meat cache, ore bunker and trestle approach, together with sufficient ground surrounding same for his conve-

nient use; affiant also claims a lien for said amount upon said mining claim and also upon the leasehold interest, hereinafter described, of the said Angus McDougall in said claim.

That the owners of said mining claim, upon the 25th day of May, 1912, were Angus McDougall, Michael Hyland, Thomas A. McGowan and John A. Clark, who, upon said date, executed a written lease to the said Angus McDougall upon said mining claim, for a period of ten years from June 1st, 1912, and said McDougall is now the owner of said leasehold interest; that for all times since said 25th day of May, 1913, the owners of said claim have been and now are the same as above mentioned, except that one Dave Cascaden has succeeded to the interest of Michael Hyland in said claim; that the said first-mentioned owners and said Dave Cascaden [14] knew said McDougall was developing said claim under said lease and knew said McDougall, with hired men, including this affiant was developing said mining claim as aforesaid and building said buildings but at no time posted any notices negating liability for said work.

JOHN H. SULLY.

Subscribed and sworn to before me this 20th day of May, 1913.

[Seal]

HARRY E. PRATT,

Notary Public in and for Alaska.

[Indorsed]: 38,904. Mechanic's Lien. John Sully. Territory of Alaska, Fourth Judicial Division, ss. Filed for Record at Request of H. E.

Pratt on the 27 day of May, 1913, at 30 min. past 3 P. M. and Recorded in Vol. 1. of Liens Page 128, Fairbanks, Recording District, John F. Dillon, Recorder. By C. E. Wright, Deputy.

#1938. Pltffs. Ex. "H." Filed in the District Court, Territory of Alaska, 4th Div. May 21, 1915, J. E. Clark, Clerk. By P. R. Wagner, Deputy.
[15]

Claim [of Henry Berks] for Mechanic's Lien.

United States of America,
Territory of Alaska,—ss.

Henry Berks, being first duly sworn, on oath says: That or about the 28th day of December, 1912, one Angus McDougall hired him to work upon the Pioneer Quartz Mining Claim situate at the head of Fairbanks Creek on the left limit thereof, on the divide between said Creek and Wolf Creek, agreeing to pay him therefor, the sum of \$5.50 per day for each day of nine hours he worked thereon; that pursuant to said contract, this affiant, upon said date, commenced work upon said claim, at no time ceasing work for a period of thirty days, and between said date and May 12th, 1913, the same being the last day he worked thereon, he worked 123½ days, for which there is due and owing \$679.25, no part of which has been paid, and he now claims a lien for said amount with interest from date at 8% per year, upon said mining claim and also upon the lease-hold interest hereinafter described of the said Angus McDougall, in said claim; that the above-mentioned time was put in wholly doing development and im-

provement work upon said mine, to wit; sinking the main shaft, running tunnels, prospecting, etc., upon said claim.

That the owners of said mining claim, upon the 25th day of May, 1912, were Angus McDougall, Michael Hyland, Thomas A. McGowan and John A. Clark, who, upon said date, executed a written lease to the said Angus McDougall upon said mining claim for a period of ten years from June 1st, 1912, and said McDougall is now the owner of said leasehold interest; that for all times since said 25th day of May, 1912, the owners of said claim have been, and now are, the same as above mentioned, except that one, Dave Cascaden, has [16] succeeded to the interest of Michael Hyland in said claim; that said first-mentioned owners and said Cascaden knew that said McDougall was developing said claim under said lease, and knew that said McDougall, with hired men, including this affiant, was developing and improving said mine, as aforesaid, and at no time did said first-mentioned owners or Dave Cascaden post any notices negating liability for said work.

HENRY BERKS.

Subscribed and sworn to before me this 20th day of May, 1913.

[Seal]

HARRY E. PRATT,

Notary Public in and for Alaska.

[Indorsed]: 38,950. Claim for Mechanic's Lien. Henry Berks. Territory of Alaska, Fourth Judicial Division,—ss. Filed for Record at Request of H. E. Pratt on the 7 Day of June, 1913, at 30 Min.

Past 9 A. M. and Recorded in Vol. 1, of Liens page 133, Fairbanks Recording District, John F. Dillon, Recorder. By C. E. Wright, Deputy.

#1938. Pltffs. Ex. "F." Filed in the District Court, Territory of Alaska, 4th Div. May 21, 1915, J. E. Clark, Clerk. By P. R. Wagner, Deputy.
[17]

Claim [of Thomas King] for Mechanic's Lien.

United States of America,
Territory of Alaska,—ss.

Thomas King, being first duly sworn, on oath says: That on or about the 9th day of April, 1913, one Angus McDougall hired him to work upon the Pioneer Quartz Mining Claim situate at the head of Fairbanks Creek on the left limit thereof, on the divide between said creek and Wolf Creek, agreeing to pay him therefor the sum of \$5 per day for each day of nine hours he worked thereon; that pursuant to said contract, this affiant, upon said date, commenced work upon said claim, at no time ceasing work for a period of thirty days and between said date and May 12th, 1913, the same being the last day he worked thereon, he worked 33 days, for which there is due and owing \$165, no part of which has been paid, and he now claims a lien for said amount with interest from date at 8% per year upon said mining claim and also upon the leasehold interest hereinafter described of said Angus McDougall in said claim; that the above-mentioned time was put wholly in development work in and

in connection with running tunnels, prospecting, etc., upon said claim;

That the owners of said mining claim, upon the 25th day of May, 1912, were Angus McDougall, Michael Hyland, Thomas A. McGowan and John A. Clark, who, upon said date, executed a written lease to the said Angus McDougall upon said mining claim for a period of ten years from June 1st, 1912, and said McDougall is now the owner of said leasehold interest; that for all times since said 25th day of May, 1912, the owners of said claim have been and now are the same as above mentioned, except that one, Dave Cascaden, has succeeded to the interest of Michael Hyland in said claim; that said first-mentioned owners and said Cascaden knew said McDougall was developing said claim under said lease, and knew that said McDougall, with hired men including this affiant, was [18] developing and improving said mine, as aforesaid, and at no time did said first mentioned owners or Dave Cascaden post any notices negating liability for said work.

TOM KING.

Subscribed and sworn to before me this 28th day of May, 1913.

[Seal]

HARRY E. PRATT,

Notary Public in and for Alaska.

[Indorsed]: 38907. Claim for Mechanic's Lien. Thomas King. Territory of Alaska, Fourth Judicial Division,—ss. Filed for Record at Request of H. E. Pratt, on the 28 day of May, 1913, at 2 P. M.,

and Recorded in Vol. 1 of Liens, Page 130. Fairbanks Recording District, John F. Dillon, Recorder. By C. E. Wright, Deputy.

#1938. Pltffs. Ex. "G." Filed in the District Court, Territory of Alaska, 4th Div. May 21, 1915. J. E. Clark, Clerk. By P. R. Wagner, Deputy. [19]

[Certificate of Clerk U. S. District Court to Supplemental Transcript of Record.]

*In the District Court for the Territory of Alaska,
Fourth Division.*

United States of America,
Territory of Alaska,
Fourth Division,—ss.

I, J. E. Clark, Clerk of the District Court, Territory of Alaska, Fourth Division, do hereby certify that the foregoing, consisting of twenty pages, numbered 1 to 20, inclusive, consisting of a full, true and correct Supplemental Transcript of the record on appeal in cause No. 1938, entitled, Jack Irvine, Plaintiff and Appellant, vs. Angus McDougall, Thomas A. McGowan, John A. Clark, Dave Cascaden, J. A. Healey, Geo. M. Smith, John Kopitz and Roy Rutherford, Defendants, and Appellees, and was made pursuant to and in accordance with an Order of the United States Circuit Court of Appeals for the Ninth Circuit, made on the 29th day of February, 1916, filed in this action and made a part of this Transcript.

And I do further certify that the Index thereof, consisting of page numbered i, is a correct Index of said Transcript of Record; also that the costs of preparing said Supplemental Transcript and this certificate, amounting to Seven and 55/100 Dollars (\$7.55) has been paid to me by counsel for Plaintiff and Appellant in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court this 28th day of March, 1916.

[Seal] J. E. CLARK,
Clerk of District Court, Territory of Alaska, Fourth
Division. [20]

[Indorsed]: No. 2730. United States Circuit Court of Appeals for the Ninth Circuit. Jack Irvine, Appellant, vs. Angus McDougall, J. A. Healy, George M. Smith and Roy Rutherford, Appellees. Supplemental Transcript of Record. Upon Appeal from the United States District Court for the Territory of Alaska, Fourth Division.

Filed April 17, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit.